

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In Re: Suzanne Paulson

Debtor(s).

Case No. Bky 04-32151-DDO
Chapter 13 Case

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: Suzanne Paulson, 16874 370th Ave, Hillman, Minnesota 56338, Debtor and their attorney, Robert Kalenda, 919 W. St Germain St. #2000, St Cloud, MN 56301, and other entities specified in Local Rule 9013-3.

1. WFS Financial, of 375 Corporate Drive, #202, Seattle, WA 98188, by its undersigned attorney, moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this matter at 9:30 a.m., on Wednesday, September 1, 2004 in Courtroom No. 228A, at the United States Courthouse, at 316 N. Robert St., St. Paul, MN 55101.

3. Any response to this Motion must be filed and delivered not later than Friday, August 27, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and Holidays), or filed and served by mail not later than Monday, August 23, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and Holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 13 case was filed on April 8, 2004. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §362 and Fed. R. Bankr. P. 4001. This Motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1 through 9013-3 and 9006-1. Movant requests relief from the automatic stay with respect to the following property of the estate subject to a lien: 1997 Honda CRV, Serial #JHLRD1846VCO72788.

6. Movant has a valid and perfected first security interest in the following collateral to secure the purchase price thereof: 1997 Honda CRV, Serial #JHLRD1846VCO72788.

7. A copy of the Retail Instalment Contract whereby Debtor granted Movant a security interest in the aforesaid collateral is attached hereto as Exhibit A.

8. Movant has duly perfected its security interest in the aforesaid collateral as reflected on the Confirmation of Lien Perfection, a true and correct copy of which is attached hereto as Exhibit B.

9. The NADA retail value of the collateral at the time of the filing of the petition was \$9,525.00 while the amount of Movant's claim was \$7,893.71. The present NADA retail value is \$9,300.00. The Debtor was to surrender collateral to Movant. The Debtor is delinquent Three Thousand Fifteen and 84/100 Dollars, (\$3,015.84) to the Movant.

10. Movant does not have, and has not been offered, adequate protection of its interest in the above collateral, and the above collateral is not necessary for an effective reorganization.

11. A separate memorandum of facts and law is submitted with the motion.

WHEREFORE, WFS Financial, by its undersigned attorney, moves the Court for an order or judgment that the automatic stay provided by 11 U.S.C. §362(a) be modified so as to permit WFS Financial to foreclose its security interest in the above collateral, and for such other relief as may be just and equitable.

Dated: August 5, 2004

MESSERLI & KRAMER, P.A.

By: 

William C. Hicks, #142505
Derrick N. Weber, #241623
Attorneys for Movant
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441
Telephone (763) 548-7900

VERIFICATION

I, Jennifer Kingsolver, corporate representative of the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: August 3, 2004

Jennifer Kingsolver
Jennifer Kingsolver

Local Rule Reference: 9013-2

ms.fm

California DMV Vehicle Title Information

FDI Consulting, Inc.
1610 Arden Way, Ste 145
Sacramento, CA 95815
(916) 921-4390

Ref:

VIN:	JHLRD1846VC072788	Plate:	4AAC496	Expiration Date:	12/28/2000
Sub Plate:		VLF Class:	DW	Purchase Date:	1997
Make:	HOND	* Year:		Ownership Date:	05/23/2000
Model Yr:	1997	Axles:		Reg Certificate:	05/31/2000
Body:	SW	Unladen Weight:	0	Prorate Number:	
Type Body:	S	Cylnds:		Hull Material:	
Engine No:		Motive Power:	G	Equipment Num:	
Submitted:	04/21/04	Type License:	11 REGULAR AUTO		
Reason:	99 - Miscellaneous/Other	Type Vehicle:	12 AUTO OLD		

Owner:	Lienholder:
PAULSON SUZANNE M	WFS FNCL INC
1330 15TH ST N APT 19	23 PASTEUR
SAINT CLOUD	
MN 56303	
County Code: 60 Out of State	IRVINE 92618
Allocated County:	Legal Owner Code: Z

DMV Record Condition:
REC STATUS:
05/23/00 SMOG DUE 12/28/01
12/31/00 VEHICLE REGISTERED OUT OF STATE
LIENHOLDER PAPERLESS TITLE L54000523
NO MAILING ADDRESS
02/02/98 PREV LIC Q378348

DMV Sub Record:
04/02/2000-ODOMETER: 43,860 MILES ACTUAL MILEAGE

04/21/04

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Re: Suzanne Paulson

Case No. Bky 04-32151-DDO
Chapter 13 Case

Debtor(s).

MEMORANDUM IN SUPPORT OF MOTION FOR RELIEF FROM STAY

WFS Financial moves the Court for an order modifying the automatic stay to permit WFS Financial to take possession of a 1997 Honda CRV presently in Debtor's possession. Movant has a security interest in the collateral pursuant to a Retail Installment Contract dated April 2, 2000, between Debtor and Barber Chrysler Plymouth Jeep, whose interest was subsequently assigned to WFS Financial. Movant's perfected security interest in the collateral is evidenced on the Confirmation of Lien Perfection for the vehicle.

The NADA retail value of the collateral at the time of the filing of the petition was \$9,525.00, while the amount of Movant's claim was \$7,893.71. The present NADA retail value of the collateral is \$9,300.00. The Debtor is delinquent Three Thousand Fifteen and 84/100 Dollars, (\$3,015.84) to the Movant.

Pursuant to 11 U.S.C. §362(d)(1), relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in collateral of such creditor." Debtor has defaulted on payments due under the Retail Installment Contract. Debtor has failed to provide WFS Financial with adequate protection for its interest in the collateral. This failure constitutes cause within the meaning of 11 U.S.C. §362(d)(1), entitling Movant to relief from the stay.

In addition, pursuant to 11 U.S.C. §362(d)(2), relief from the automatic stay is also appropriate where the collateral is not necessary for an effective reorganization. In this case, the Debtors do not need this collateral for an effective reorganization.

In conclusion, WFS Financial is entitled to an Order modifying the automatic stay and allowing it to pursue its state court remedies for cause, as defined under 11 U.S.C. §362(d), and due to the fact that the collateral is not necessary for Debtor's effective reorganization. Movant does not have adequate protection for its security interest and none has been offered.

WFS Financial respectfully requests that the above-named Court modify the automatic stay to allow Movant to pursue its remedies pursuant to state law in regard to this collateral to protect its interest in the collateral.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), WFS Financial requests that this Order shall be effective immediately.

Dated: August 5, 2004

MESSERLI & KRAMER, P.A.

By: 

William C. Hicks, #142505
Derrick N. Weber, #241623
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441
Telephone (763) 548-7900

04-49975-0

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Ryan Leddy, of the City of PLYMOUTH, County of HENNA, in the State of
Minnesota, declares under penalty of perjury that on 8/6/04, he served by U.S. mail the
following documents:

1. Notice of Hearing and Motion for Relief from Stay;
2. Memorandum in Support of Motion for Relief from Stay; and
3. proposed Order to:

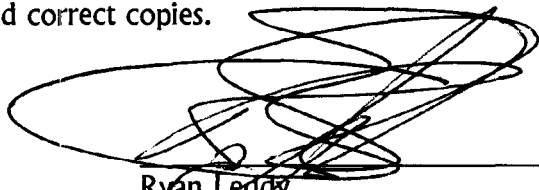
United States Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis MN 55415

Trustee
Michael J. Farrell
P.O. Box 519
Barnesville, MN 56514

Robert Kalenda
919 W. St Germain St. #2000
St Cloud, MN 56301

Suzanne Paulson
16874 370th Ave
Hillman, Minnesota 56338

by depositing and mailing to them true and correct copies.


Ryan Leddy

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Suzanne Paulson

Case No. Bky 04-32151-DDO
Chapter 13 Case

Debtor(s).

ORDER

This matter is before the Court on WFS Financial's Motion for Relief from Stay. The Motion came on for hearing on Wednesday, September 1, 2004 at 9:30 a.m., at St. Paul, MN. Appearances are as noted in the record.

WFS Financial requested relief from the automatic stay to foreclose its security interest in a 1997 Honda CRV, Serial #JHLRD1846VCO72788. Movant holds a duly perfected security interest in the collateral. The Court being advised fully in the Premises, and upon the Affidavit and all files and records herein,

NOW ORDERS:

That the Automatic Stay provided by 11 U.S.C. §362(a) be modified so as to permit WFS Financial to foreclose its security interest in the above collateral, in accordance with state law. Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), this Order is effective immediately.

Dated: _____

BY THE COURT:

United States Bankruptcy Judge